IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

-

WRIT PETITION NO : 12778 of 2004

Between:

K. Veera Swamy, S/o Surayya,
R/o Fazulbeghpeta village, Gujarathipeta, Srikakulam Mandalam and District.

..... PETITIONER

AND

1 The Regional Joint Commissioner of Endowments, Endowments, Kakinada,

East Godavari District.
2 The Assistant Commissioner of Endowments, Srikakulam Town,

Srikakulam District.
3 Sri Jagannadha Swamy Vari Temple, Gujarathipeta, Srikakulam Town and

District, rep. by its Manager-cum-Executive Officer, Gujarathipeta,

Srikakulam Town and District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any appropriate order or direction or a writ more particularly a writ in the nature of Mandamus to declare the action of the Respondents herein in selling the land an extent of Ac. 1-40 cents in Sy.Nos.126/1 and 126/3 situated at Fazulbeghpet Village, Srikakulam Mandal and District under public auction on 28-7-2004 pursuant to the Tender-cum-Auction notice dated 16-7-2004 , which was held under Tenancy of the Petitioner, who is a landless poor person is illegal, void and without jurisdiction and consequently direct the Respondents herein to declare the Petitioner is a landless poor person by conducting enquiry as per the provisions of the A.P. Charitable and

Hindu Religious Institutions and Endowments Act, 1987.

Counsel for the Petitioner: MR.GADEVENKATESWARA RAO

Counsel for the Respondent Nos.1 and 2: GP FOR ENDOWMENTS

Counsel for the Respondent No.3: SMT.N.INDRANI

The Court at the admission stage made the following:

ORDER:

Petitioner claims to be the cultivating tenant in respect of Ac.1.40 cents of land situated in Survey Nos.126/1 and 126/3 of Fazulbegpet village, Srikakulam Mandal and District belonging to the third respondent-temple. It is claimed that he and his forefathers have been in possession and enjoyment of the said land for the past 75 years. It is alleged that four months ago, the Manager of the third respondent-temple has obtained his signatures on some papers stating that it is for the purpose of providing water source for cultivation of the land. Thereafter, the petitioner received two caveat petitions on 05.07.2004 and 06.07.2004 filed by respondents 2 and 3 in the Court of the Principal Senior Civil Judge and Junior Civil Judge, Srikakulam, alleging that the petitioner has been proclaiming in the locality and trying to cause hindrance to the sale proceedings being taken up in respect of the land question. Thereafter, the petitioner filed this writ petition stating that he is not aware of any such proceedings and that since he is in possession of small extent of land of Ac.1.40 cents, he is entitled to be declared as a landless poor person and thus he is entitled to the benefit of Section 82 (2) of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'). It is also contended that since no proceedings have been issued under Rule 3 of the Rules issued under G.O.Ms.No.379 Revenue (Endowments-1) Department, dated 11.03.2003, terminating the lease in favour of the petitioner, the third respondent-temple is not entitled to take any steps to

dispossess him from the land in question. Hence, this writ petition seeking a declaration that the action of the respondents in proposing to auction the leasehold rights of the land in question is arbitrary and illegal.

On behalf of the third respondent, a counter affidavit has been filed stating that the petitioner has voluntarily handed over the land in his possession and thereafter auction has been conducted in respect of the leasehold rights to an extent of Ac.0.21 cents. It is also stated that the petitioner without approaching the Assistant Commissioner of Endowments for determination of his status, is not entitled to claim any right to continue in possession of the land in question.

I have heard the learned counsel for the petitioner, the learned Government Pleader for Endowments appearing for the respondents 1 and 2, and the learned Standing Counsel appearing for the third respondent temple.

Whether petitioner is entitled to the benefit of Section 82(2) of the Act and whether he is continuing in possession of the land in question as on today, are all the questions to be decided by the Assistant Commissioner of Endowments by conducting necessary enquiry after affording due opportunity to both the parties to adduce the necessary evidence in support of their respective claims. Hence, I am not inclined to express any opinion on the merits of the case. In stead, I deem it appropriate to dispose of the writ petition permitting the petitioner to make a representation before the Assistant Commissioner of Endowments, Srikakulam town, the second respondent herein, with regard to his claim that he is a landless poor person within a period of two weeks from today. If any such representation is made, the second respondent shall make the necessary enquiry and pass appropriate orders in accordance with law within a period of four weeks thereafter. Till such orders are passed, status quo obtaining as on today as to the nature and possession of the land in question shall be maintained.

With the above directions, the writ petition is disposed of. No costs.

14.09.2004

Note: Furnish CC in two days

(b/o)

VGB

To

1 The Regional Joint Commissioner of Endowments, Endowments, Kakinada,

East Godavari District.
2 The Assistant Commissioner of Endowments, Srikakulam Town,

Srikakulam District.
3 Sri Jagannadha Swamy Vari Temple, Gujarathipeta, Srikakulam Town and

District, rep. by its Manager-cum-Executive Officer, Gujarathipeta,

Srikakulam Town and District.

4 2CCs to the Government Pleader for Endowments, High Court

Buildings, Hyderabad (OUT)

5 2CD copies